

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOSEPH A. WILLIAMS,

Plaintiff,

v.

ROBERT WERLINGER,

Defendant.

ORDER

13-cv-819-bbc

On August 20, 2014 the court directed the United States Marshals Service (USMS) to make a second attempt to serve defendant Werlinger in this *pro se* case. Now the USMS has submitted a second “process receipt and return” form indicating that no forwarding information is available and they were not able to locate defendant Werlinger using internet database searches. Based on this information, I conclude that the USMS has made reasonable efforts to locate the defendant. *See Sellers v. United States*, 902 F.2d 598, 602 (7th Cir. 1990) (once defendant is identified, marshal must make reasonable effort to obtain current address). As this court has stated many times, the USMS is not required to be a private investigator for civil litigants or to use software available only to law enforcement officers to discover addresses for defendants whose whereabouts are not discoverable through public records. *See, e.g., Mosby v. Doe*, 2009 WL 278967 (W.D. Wis. Feb. 5, 2009).

A plaintiff cannot maintain a lawsuit against a defendant who has not received notice of the claims against him. However, before the court dismisses the case for this problem, plaintiff will be given a short deadline to explain whether he would like to pursue serving defendant himself by conducting his own search or by hiring someone to do so.¹

¹ Even if the court ultimately dismissed the case for failure to serve defendants, such a dismissal would be without prejudice, which means that in the right circumstances, plaintiff could refile this lawsuit.

ORDER

It is ORDERED that plaintiff Joseph Williams may have two weeks, until September 26, 2014, to explain to the court whether and how he will attempt to locate defendant for the purpose of serving the complaint in this action. Failure to respond to this order will result in dismissal of the case.

Entered this 12th day of September, 2014.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge